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DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

ORDER REGULATING THE HANDLING OF ONIONS GROWN IN THE STATE OF UTAH

Whereas, it is provided in Section 8c of the Agricultural Adjustment Act, approved May 12, 1933, as amended (hereinafter called the act), as follows:

(1) The Secretary of Agriculture shall, subject to the provisions of this section, issue, and from time to time amend, orders applicable to processors, associations of producers, and others engaged in the handling of any agricultural commodity or product thereof specified in subsection (2) of this section. Such persons are referred to in this title as "handlers." Such orders shall regulate, in the manner hereinafter in this section provided, only such handling of such agricultural commodity, or product thereof, as is in the current of interstate or foreign commerce, or which directly burdens, obstructs, or affects, interstate or foreign commerce in such commodity or product thereof;

and

Whereas, the Secretary of Agriculture, having reason to believe that the issuance of an order would tend to effectuate the applicable provisions of the declared policy of the act with respect to onions grown in the State of Utah, by establishing and maintaining such marketing conditions for said onions as would reestablish prices to farmers at a level that will give such onions a purchasing power with respect to articles that farmers buy, equivalent to the purchasing power of such onions in the base period, gave notice on the 5th day of November 1936,¹ pursuant to the applicable provisions of the act and the regulations thereunder, of a hearing to be held in Salt Lake City, Utah, on November 14, 1936, on a proposed order regulating the handling of said onions, and upon said date and at said place conducted a public hearing thereon, giving due opportunity to all interested parties to be heard concerning said proposed order; and

Whereas, the Secretary of Agriculture has found and proclaimed² that the purchasing power of onions grown in the State of Utah during the base period August 1909-July 1914 cannot be satisfactorily determined from available statistics of the Department of Agriculture, but that the purchasing power of such onions can be satisfactorily determined from available statistics of the Department of Agriculture for the period August 1919-November 1928; and

Whereas, the Secretary of Agriculture finds upon the evidence introduced at said hearing and the record thereof:

1. That customarily more than ninety percent (90%) of all carlot shipments of onions grown in Utah enter into the current of interstate and foreign commerce, and that the handling of said onions is in the current of interstate and foreign commerce and directly burdens, obstructs, and affects interstate and foreign commerce in the said commodity;

2. That for the period August 1929-July 1936 and the period August 1933-July 1936 the average price to farmers for said onions has represented sixty-four percent (64%) and seventy-three and three-tenths percent (73.3%), respectively, of the purchasing power of such onions during the aforesaid base period;

3. That, on the basis of conditions prevailing at the time of the said hearing, in order to give such onions in the 1936-1937 season a purchasing power with respect to articles that farmers buy equivalent to the average purchasing power of such onions in the aforesaid base period, it would have been necessary that the average price to farmers for said onions be approximately one dollar and thirty-two cents (\$1.32) per one hundred (100) pounds;

4. That this order is limited in its application to the smallest regional production area that is practicable and consistent to carry out the applicable provisions of the declared policy of title I of the act with respect to establishing and maintaining such marketing conditions for onions grown in the State of Utah as will reestablish prices to growers that will give such onions a purchasing power with respect to articles that farmers buy equivalent to the purchasing power of such onions in the base period, and that the issuance of several orders applicable to any subdivision of the regional area covered by this order would not effectively carry out the said declared policy;

5. That there are no differences in the production and marketing of the principal varieties of said onions in the production area covered by this order that renders necessary different terms applicable to different parts of such area;

6. That the interest of the consumer is protected by reason of the fact that this order is designed to operate so as to bring about that approach to the level of prices which is declared to be the policy of Congress to establish by securing a gradual correction of the current level of prices at as rapid a rate as the Secretary of Agriculture deems to be in the public interest and feasible in view of the current consumptive demand in the domestic and foreign markets, and by reason of the fact that this order authorizes no action which has for its purpose the maintenance of prices to farmers above the level of prices which it is declared to be the policy of Congress to establish in subsection 1 of section 2 of said title 1;

7. That limiting the quantity of certain grades and sizes of such onions that may be shipped in the current of interstate or foreign commerce, as provided herein, will tend to restore prices to producers of onions in the State of Utah to a level having a purchasing power with respect to articles that producers buy equivalent to the purchasing power of said onions in the aforesaid base period;

8. That this order and all the terms and conditions thereof will tend to effectuate the applicable provisions of the declared policy of title I of the act with respect

¹ 1 F. R. 2031.

² 1 F. R. 2422.



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to onions grown in the State of Utah by establishing and maintaining such marketing conditions as will re-establish prices to producers at a level that will give agricultural commodities a purchasing power with respect to articles that producers buy equivalent to the purchasing power of agricultural commodities in the base period, at the same time protecting the interest of the consumer by (a) approaching the level of prices which it is declared to be the policy of Congress to establish in subsection (1) of section 2 of title I of the act by a gradual correction of the current level of prices at as rapid a rate as the Secretary of Agriculture deems to be in the public interest and feasible in view of the current consumptive demand in domestic and foreign markets, and by (b) authorizing no action which has for its purpose the maintenance of prices to producers above the level which it is declared to be the policy of Congress to establish in the said subsection (1) of section 2 of title I of the act; and

Whereas, the Secretary finds:

1. That the marketing agreement regulating the handling of onions grown in Utah, executed by him on the 22nd day of April 1937, upon which a hearing was held on November 14, 1936, was signed by handlers who handled during the 1935-1936 season more than ninety percent (90%) of the volume of said onions which was marketed during the said season in the current of interstate and foreign commerce;

2. That this order regulates the handling of such onions in the same manner as the aforesaid marketing agreement, and is made applicable only to persons in the respective classes of industrial and commercial activities which are specified in the said marketing agreement; and

3. That the issuance of this order is favored by producers who, during the 1935-1936 season, which is hereby determined to be a representative period, have produced within the State of Utah for market at least two-thirds ($\frac{2}{3}$) of the volume of onions produced in said season within the State of Utah for market.

Now, therefore, it is ordered by the Secretary of Agriculture, acting under the authority vested in him as aforesaid, that the handling of the said onions in the current of interstate and foreign commerce, or so as directly to burden, obstruct, or affect interstate or foreign commerce in such onions, from and after the date herein specified, shall be in conformity to and in compliance with the terms and conditions of this order.

ARTICLE I—DEFINITIONS

SECTION 1. *Definitions.*—As used in this order, the following terms have the following meanings:

1. "Secretary" means the Secretary of Agriculture of the United States.

2. "Act" means the Agricultural Adjustment Act, approved May 12, 1933, as amended.

3. "Person" means an individual, partnership, corporation, association, and any other business unit.

4. "Onions" means and includes all varieties of onions grown in and shipped from the State of Utah.

5. "Variety" means a type of onion having similar characteristics, as for example the yellow Spanish type, the white Spanish type, and the yellow Denvers type.

6. "To handle" or "to ship" means to sell for shipment in, to ship in, or in any other way to put into the channels of trade in the current of interstate or foreign commerce, or so as directly to burden, obstruct, or affect interstate or foreign commerce.

7. "Season" means the twelve-month period beginning August 1 and ending July 31, both inclusive.

8. "Producer" means any person who produces onions in the State of Utah, for sale or shipment in the current of interstate or foreign commerce, or in any manner whereby the same directly burdens, obstructs or affects interstate or foreign commerce.

9. "Handler" means any person who handles onions, including producers who handle onions of their own production or for others.

10. "Control Board" means the control agency selected in accordance with the provisions of article II of this order.

ARTICLE II—CONTROL BOARD

SECTION 1. *Membership and Organization.*—1. A Control Board consisting of seven (7) members is hereby established to assist the Secretary in the administration of this order. Within five (5) days after the effective date of this order, and between the 15th and 31st day of May annually thereafter, there shall be named twelve (12) nominees, and said nominations shall then be certified to the Secretary. The nominations shall be made as follows:

(a) Six (6) nominees shall be chosen in a general election in which all handlers shall be entitled to participate. At any such election each handler shall be entitled to cast but one (1) ballot on behalf of himself, agents, partners, affiliates, subsidiaries and representatives.

(b) Six (6) nominees shall be chosen by producers in the following manner: Two (2) nominees shall be chosen at a general election in which all producers of Utah County shall be entitled to participate; two (2) nominees shall be chosen at a general election in which all producers of Davis and Salt Lake Counties shall be entitled to participate; and two (2) nominees chosen at a general election in which all producers of Weber, Morgan, Cache and Box Elder Counties shall be entitled to participate. At such elections each producer shall be entitled to cast one (1) ballot in behalf of himself, agents, partners, affiliates, subsidiaries and representatives. Each such nominee shall be a producer of onions who during the season preceding his nomination did not ship, consign or otherwise handle

onions not produced by himself in excess of ten percent (10%) of the total quantity shipped, consigned or otherwise handled by such nominee.

2. The Secretary shall select from the nominees of the handlers, three (3) handler members and their respective alternates; from the nominees of Utah County, one (1) producer member and his alternate; from the nominees of Davis and Salt Lake Counties, one (1) producer member and his alternate; and from the nominees of Weber, Morgan, Cache and Box Elder Counties, one (1) producer member and his alternate. The six (6) members thus selected by the Secretary shall, at their first meeting, nominate not less than two (2) persons who shall be residents of the State of Utah but shall not be producers or handlers, and from such nominees the Secretary shall select a member and his alternate.

3. Any vacancy on the Control Board caused by death, resignation, removal, or for any other cause, shall be filled by the Secretary from two (2) nominees nominated, in the same manner as was the original member, within ten (10) days after the vacancy occurs; and the nominees shall be producers or handlers or neither, depending upon whether the vacancy was caused by a producer or handler member or a member that was neither a producer nor a handler member.

4. No delay in the nomination or selection of any member, alternate or successor of the Control Board shall be deemed to invalidate any such selection. Any person selected as a member or alternate of the Control Board shall qualify by filing a written acceptance of his appointment with the Secretary or with the Secretary's designated representative.

5. Notwithstanding the other provisions of this section, the Secretary may select as members of the Control Board persons not nominated, provided such persons have the same qualifications for membership as are required of persons nominated.

SEC. 2. *Failure to Select Members.*—If a nomination for any member, alternate or successor is not made within the applicable period specified in this article, the Secretary may select a member, alternate or successor without regard to nominations.

SEC. 3. *Organization.*—1. Upon the selection of five (5) of its members, the Control Board may organize and commence to function: *Provided, however,* That the Control Board shall not perform any of its duties or exercise any authority provided herein while there are more than two (2) vacancies in its membership.

2. In the transaction of all business, each member of the Control Board shall be entitled to cast but one (1) vote.

SEC. 4. *Removal and Disapproval.*—The members of the Control Board (including successors and alternates), and any agents or employees appointed or employed by the Control Board, shall be subject to removal by the Secretary at any time. Each and every order, regulation, decision, determination or other act of the Control Board shall be subject to the continuing right of the Secretary to disapprove of the same at any time, and upon such disapproval shall be deemed null and void, except as to acts done prior to such disapproval and in reliance on, or in compliance with such regulation, determination or other act of the Control Board.

SEC. 5. *Expenses.*—Members of the Control Board shall serve without compensation, but shall be entitled to expenses necessarily incurred in the performance of their powers and duties hereunder.

SEC. 6. *Authority.*—The Control Board is hereby authorized:

1. To administer, as hereinafter specifically provided, the terms and provisions hereof;
2. To make, in accordance with the provisions herein contained, administrative rules and regulations;
3. To receive, investigate, and report to the Secretary of Agriculture complaints of violations of this order; and
4. To recommend to the Secretary of Agriculture amendments to this order.

SEC. 7. *Duties.*—The Control Board shall have the following duties:

1. To act as intermediary between the Secretary and any handler;

2. To keep minute books and records which will clearly reflect all of its acts and transactions, and such minute books and records shall at any time be subject to the examination of the Secretary;

3. To furnish to the Secretary such available information as he may request;

4. To appoint such employees as it may deem necessary and to determine the compensation and define the duties of such employees;

5. To require the posting of a bond by any member of the Control Board, or any person employed under this order, who handles funds. Such bond shall be in an amount not less than the maximum amount of funds that may, at any time, be entrusted to such member or employee under the terms of this order;

6. To consult with any committee established pursuant to any marketing agreement or with any handlers operating under an order of the Secretary with respect to the handling of onions grown in any area covered by such marketing agreement or order, which are handled at the same time or under similar conditions, to the end that this order may be administered, within the terms and conditions hereof, in conjunction with such marketing agreement or order, so as best to effectuate the purposes of the act; and

7. To perform such duties in connection with the administration of Section 32 of the Act to Amend the Agricultural Adjustment Act, and for other purposes, Public No. 320, approved August 24, 1935, as amended, as may from time to time be assigned to it by the Secretary.

SEC. 8. *Procedure.*—All decisions of the Control Board shall be by a majority of the votes of the qualified members. Five (5) members of the Control Board shall constitute a quorum to transact all business.

SEC. 9. *Funds.*—All funds received by the Control Board, pursuant to any provision of this order, shall be used solely for the purpose therein specified and shall be accounted for in the following manner:

1. The Secretary may require the Control Board and its members to account for all receipts and disbursements; and

2. Upon the removal from office or upon the expiration of the term of office of any member of the Control Board, he shall account for all receipts and disbursements, and deliver all property and funds, together with all books and records in his possession, to his successor in office, and shall execute such assignments and other instruments as may be necessary or appropriate to vest in such successor full title to all of the property, funds, and/or claims vested in such member pursuant to this order.

ARTICLE III—GRADE AND SIZE REGULATION

SECTION 1. *Grades and Sizes.*—If the Secretary, upon recommendation of the Control Board or otherwise, finds regulation of shipments will tend to effectuate the purposes of this order, he may limit shipments of any or all varieties of onions produced during any season, for any period of time, by (1) prohibiting handlers from handling any or all varieties of onions of a United States grade or grades other than the grade or grades specified by the Secretary, and/or (2) prohibiting handlers from handling any or all varieties of onions of a size or sizes other than the size or sizes specified by the Secretary: *Provided,* That no such limitation of shipments by grade shall be applicable to any shipment when Federal-State Inspection Service cannot be had for such shipment. The Secretary shall give not less than three (3) days' notice to handlers and producers of any limitation of shipments pursuant to this section, by means of a press release, or by posting notices in such places as the Secretary may determine to be necessary or desirable, or by such other means as the Secretary deems necessary, for the purpose of notifying handlers and producers of the institution of such limitation.

SEC. 2. *Inspection.*—During any period in which the Secretary has limited shipments, as provided in section 1 of this article, no onions shall be handled from the State of Utah

unless they have been inspected, and their variety, size, and conformity to the United States grades certified, by an authorized representative of the Federal-State Inspection Service.

SEC. 3. Exemptions.—1. Before the institution of any limitation of shipments pursuant to section 1 of this article, the Control Board shall determine the percentage which the total quantity of onions subject to such limitation and permitted to be shipped, is of the total quantity of such onions available for shipment from the State of Utah. The Control Board shall forthwith announce this percentage and the procedure by which exemption certificates may be issued to growers pursuant to this section.

2. Any producer who would, because of such limitation, be unable to dispose of as large a percentage of such onions produced by him as the percentage which the Control Board, pursuant to subsection 1 of this section, has determined can be handled from the State of Utah, may apply to the Control Board for permission to handle such onions of his own production, either himself or through a handler. In such case the Control Board shall issue a certificate granting to such producer permission to handle such onions to the extent necessary for such producer to dispose of a percentage of such onions available for shipment during the limitation period equal to the percentage determined by the Control Board pursuant to subsection 1 of this section. The Control Board shall retain a copy of such certificate, together with a statement of the evidence upon which it was granted. If any grower is dissatisfied with the determination of the Control Board with respect to such exemption certificate, he may appeal to the Secretary.

SEC. 4. Compliance.—Except as provided in section 1 of article VI, no handler shall ship or contract to ship onions of a size or grade, the shipment of which has been prohibited by the Secretary pursuant to this article.

ARTICLE IV—EXPENSES

SECTION 1. Expenses.—Each handler shall pay to the Control Board such handler's pro rata share (as approved by the Secretary) of such expenses, as the Secretary may find will necessarily be incurred by the Control Board during any period specified by the Secretary, for the maintenance and functioning of the Control Board, other than expenses incurred in receiving, handling, holding or disposing of any quantity of onions received, handled, held or disposed of by such Control Board for the benefit or account of persons other than handlers subject to this order.

SEC. 2. Shipping Permits.—The Secretary may, in his discretion, for the purpose of collecting money for administrative expenses under this order, require handlers to purchase from the Control Board, for such specified period of time, permits to be affixed to each package or carload of onions before the same shall be handled: *Provided, however,* That any payments received for such permits shall be used for the purposes set forth in section 1 of this article, and shall, in no event, exceed the pro rata share of expenses required to be paid by any handler.

ARTICLE V—LIABILITY OF CONTROL BOARD MEMBERS

SECTION 1. Liability.—No member of the Control Board nor any employee thereof shall be held responsible individually in any way whatsoever to any handler or any other person for errors in judgment, mistakes, or other acts, either of commission or omission, of such member or employee, except for dishonesty.

ARTICLE VI—MISCELLANEOUS

SECTION 1. Charitable Purposes.—Nothing contained in this order shall be construed to authorize any limitation of the right to ship onions for consumption by charitable institutions or relief agencies. The Control Board may, from time to time, prescribe proper safeguards to prevent onions shipped for such purposes from being introduced into the commercial channels of trade contrary to the provisions of this order.

SEC. 2. Effect of Termination or Amendment.—Unless otherwise expressly provided in the notice of termination,

or in the amendment of this order, no termination or amendment of this order shall either (a) affect, waive or terminate any right, duty, obligation or liability which shall have arisen or may thereafter arise in connection with any provision of this order, or (b) release or forgive any violation of this order occurring prior to the effective time of such termination or amendment, or (c) affect or impair any rights or remedies of the Secretary or of any other person with respect to any such violation.

SEC. 3. Continuing Power and Duty.—If, upon the termination of this order, there are any obligations arising thereunder, the final approval or ascertainment of which requires further acts by any party subject thereto, or by the Control Board, or by any other person, the authority and/or duty to perform such further acts shall continue notwithstanding such termination: *Provided,* That any such acts required under the terms of this order to be performed by the Control Board hereunder shall be performed by the members of such board functioning at the effective time of such termination, or, if the Secretary shall so direct, by such other person, persons or agency as the Secretary may designate.

ARTICLE VII—EFFECTIVE TIME AND TERMINATION

SECTION 1. Effective Time.—This order shall become effective at such time as the Secretary may declare above his signature attached hereto, and shall continue in force until terminated as follows:

(1) The Secretary may at any time terminate this order by giving at least one (1) day's notice by means of a press release or in any other manner which he may determine.

(2) This order shall, in any event, terminate whenever the provisions of the act authorizing it ceases to be in effect.

SEC. 2. Proceedings After Termination.—Upon the termination of this order, the members of the Control Board then functioning shall continue as joint trustees, for the purposes of this order, of all funds and property then in the possession of or under the control of said board, including claims for any funds unpaid or property not delivered at the time of such termination.

Said trustees (a) shall continue in such capacity until discharged by the Secretary;

(b) shall account, from time to time, for all receipts and disbursements and/or deliver all funds and property on hand, together with all books and records of the Control Board and of the joint trustees, to such person as the Secretary shall direct; and

(c) shall execute, upon the request of the Secretary, such assignments or other instruments necessary or appropriate to vest in such person full title and right to all of the funds and/or claims vested in the Control Board or the joint trustees pursuant to this order. Any funds collected pursuant to article IV, and held by such joint trustees or such person, over and above the amount necessary to meet outstanding obligations and expenses necessarily incurred by the joint trustees or such other person in the performance of their duties hereunder, shall be returned as soon as practicable (after the termination of this order) to the handlers, pro rata, in proportion to their contributions made pursuant to this order.

Any and all persons to whom funds and/or claims have been delivered by the Control Board or its members, pursuant to this section, shall be subject to the same obligations and duties with respect to said funds as are hereinabove imposed upon the members of said board.

ARTICLE VIII—DURATION OF IMMUNITIES

SECTION 1. Immunities.—The benefits, privileges, and immunities conferred by virtue of this order, shall cease upon its termination, except with respect to acts done under and during the existence of this order, and the benefits, privileges, and immunities conferred by this order upon any person shall cease upon the termination as to such person, except with respect to acts done under and during the existence of this order.

ARTICLE IX—AGENTS

SECTION 1. *Agents*.—The Secretary may by a designation in writing name any person not subject to this order, including any officer or employee of the Government, or name any Bureau or Division in the Department of Agriculture, or any board or committee created hereunder, to act as his agent or representative in connection with any of the provisions of this order.

ARTICLE X—AMENDMENTS

SECTION 1. *Proposals*.—Amendments to this order may be proposed at any time by any party subject hereto or by the Control Board.

ARTICLE XI—SEPARABILITY

SECTION 1. *Separability*.—If any provision of this order is declared invalid, or the applicability thereof to any person, circumstance, or thing is held invalid, the validity of the remainder of this order and/or the applicability thereof to any other person, circumstance, or thing shall not be affected thereby.

ARTICLE XII—DEROGATION

SECTION 1. *Derogation*.—Nothing contained in this order is or shall be construed to be in derogation or in modification of the rights of the Secretary or of the United States (a) to exercise any powers granted by the act or otherwise, and/or, (b) in accordance with such powers, to act in the premises whenever such action is deemed advisable.

In witness whereof, H. A. Wallace, Secretary of Agriculture, does hereby affix the seal of the Department of Agriculture, execute in duplicate and issue this order in the city of Washington, District of Columbia, on the 22nd day of April 1937, and pursuant to the provisions hereof declare this order to be effective on and after 12:01 A. M., m. s. t., April 26, 1937.

[SEAL]

H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 37-1184; Filed, April 22, 1937; 12:16 p. m.]

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 19th day of April, A. D., 1937.

Commissioners: William A. Ayres, Chairman, Garland S. Ferguson, Jr., Charles H. March, Ewin L. Davis, Robert E. Freer.

[File No. 21-292]

IN THE MATTER OF TRADE PRACTICE RULES FOR THE TUBULAR PIPINGS AND TRIMMINGS MANUFACTURING INDUSTRY

PROMULGATION OF TRADE PRACTICE RULES

Due proceedings having been had under the trade practice conference procedure in pursuance of the Act of Congress approved September 26, 1914 (36 Stat. 717).

It is now ordered that the trade practice rules of Group I which have been approved by the Commission in this proceeding be, and the same are, hereby promulgated for the Tubular Pplings and Trimmings Manufacturing Industry, as follows:

TRADE PRACTICE RULES

TUBULAR PIPINGS AND TRIMMINGS MANUFACTURING INDUSTRY

These rules promulgated by the Commission are designed to foster and promote fair competitive conditions in the interest of industry and the public. They are not to be used, directly or indirectly, as part of or in connection with any combination or agreement to fix prices, or for the suppression of competition, or otherwise to unreasonably restrain trade.

Group I

The unfair trade practices which are embraced in Group I rules are considered to be unfair methods of competition or other illegal practices within the statutes and decisions of the Federal Trade Commission and the courts; and appropriate proceedings in the public interest will be taken by the Commission to prevent the use of such unlawful practices in or directly affecting interstate commerce.

Rule 1.

The practice of selling goods below the seller's cost, with the intent and with the effect of injuring a competitor and where the effect may be to substantially lessen competition or tend to create a monopoly or unreasonably restrain trade, is an unfair trade practice; all elements recognized by good accounting practice as proper elements of such cost shall be included in determining cost under this rule.

Rule 2.

Wilfully inducing or attempting to induce, by any false or deceptive means whatsoever, the breach of any lawful contract or contracts existing between competitors and their customers or their suppliers, or wilfully interfering with or obstructing the performance of any such contractual duties or services, with the purpose and effect of unduly hampering, injuring or embarrassing competitors in their businesses, is an unfair trade practice.

Rule 3.

The imitation of the trade-marks, trade names, brands, labels or other marks of identification of competitors, having the tendency, capacity or effect of misleading or deceiving purchasers, prospective purchasers or the consuming public, is an unfair trade practice.

Rule 4.

The circulation of threats of suit for infringement of patents or trade-marks among customers or prospective customers of competitors, not made in good faith but for the purpose or with the effect of harassing or intimidating such customers or prospective customers, or of unduly hampering, injuring or prejudicing competitors in their businesses, is an unfair trade practice.

Rule 5.

(a) *Prohibited Discriminatory Differentials, Rebates, Refunds, Discounts, Credits and Other Allowances*. It is an unfair trade practice for any member of the industry engaged in commerce,¹ in the course of such commerce, to grant or allow, secretly or openly, directly or indirectly, any price differentials, rebates, refunds, discounts, credits or other allowances which effectuate a discrimination in price between different purchasers of goods of like grade and quality where either or any of the purchases involved therein are in commerce¹ and where the effect thereof may be substantially to lessen competition or tend to create a monopoly in any line of commerce¹ or to injure, destroy or prevent competition with any person who either grants or knowingly receives the benefit of such discrimination or with customers of either of them, *Provided however*—

(1) That the goods involved in any such transaction are sold for use, consumption or resale within any place under the jurisdiction of the United States;

(2) That nothing herein contained shall prevent differentials which make only due allowance for differences in the cost of manufacture, sale or delivery resulting from

¹ As herein used, the word "commerce" means trade or commerce among the several States and with foreign nations, or between the District of Columbia or any Territory of the United States and any State, Territory, or foreign nation, or between any insular possessions or other places under the jurisdiction of the United States, or between any such possession or place and any State or Territory of the United States or the District of Columbia or any foreign nation, or within the District of Columbia or any Territory or any insular possession or other place under the jurisdiction of the United States; Provided, That this shall not apply to the Philippine Islands.

the differing methods or quantities in which such commodities are to such purchasers sold or delivered;

(3) That nothing herein contained shall prevent persons engaged in selling goods, wares or merchandise in commerce¹ from selecting their own customers in bona fide transactions and not in restraint of trade;

(4) That nothing herein contained shall prevent price changes from time to time where made in response to changing conditions affecting either (a) the market for the goods concerned, or (b) the marketability of the goods, such as, but not limited to, actual or imminent deterioration of perishable goods, obsolescence of seasonal goods, distress sales under court process, or sales in good faith in discontinuance of business in the goods concerned.

(b) *Prohibited Brokerages and Commissions.* It is an unfair trade practice for any member of the industry engaged in commerce¹, in the course of such commerce, to pay or grant, or to receive or accept, anything of value as a commission, brokerage, or other compensation, or any allowance or discount in lieu thereof, except for services rendered in connection with the sale or purchase of goods, wares, or merchandise, either to the other party to such transaction or to an agent, representative, or other intermediary therein where such intermediary is acting in fact for or in behalf, or is subject to the direct or indirect control, of any party to such transaction other than the person by whom such compensation is so granted or paid.

(c) *Prohibited Advertising or Promotional Allowance, Etc.* It is an unfair trade practice for any member of the industry engaged in commerce¹ to pay or contract for the payment of advertising or promotion allowances or any other thing of value to or for the benefit of a customer of such member in the course of such commerce as compensation or in consideration for any services or facilities furnished by or through such customer in connection with the processing, handling, sale or offering for sale of any products or commodities manufactured, sold or offered for sale by such member, unless such payment or consideration is available on proportionally equal terms to all other customers competing in the distribution of such products or commodities.

(d) *Prohibited Discriminatory Services or Facilities.* It is an unfair trade practice for any member of the industry engaged in commerce¹ to discriminate in favor of one purchaser against another purchaser or purchasers of a commodity bought for resale, with or without processing, by contracting to furnish or by furnishing, or by contributing to the furnishing of, any services or facilities connected with the processing, handling, sale or offering for sale of such commodity so purchased upon terms not accorded to all purchasers on proportionally equal terms.

(e) *Illegal Price Discrimination.* It is an unfair trade practice for any member of the industry or other person engaged in commerce¹, in the course of such commerce, to discriminate in price in any other respect contrary to Section 2 of the Clayton Act as amended by the Act of Congress, approved June 19, 1936 (Public No. 692, 74th Congress), or knowingly to induce or receive a discrimination in price which is prohibited by such section as amended.

Rule 6.

The defamation of competitors by falsely imputing to them dishonorable conduct, inability to perform contracts, questionable credit standing, or by other false representations, or the false disparagement of the grade, quality or manufacture of the products of competitors, or of their business methods, selling prices, values, credit terms, policies or services, with the tendency, capacity or effect of misleading or deceiving purchasers, prospective purchasers or the consuming public, is an unfair trade practice.

Rule 7.

The making, or causing or permitting to be made or published, any false, untrue or deceptive statement or repre-

sentation, by way of advertisement or otherwise, concerning the grade, quality, quantity, substance, character, nature, origin, size or preparation of any product of the industry, or in any other material respect, with the tendency, capacity or effect of misleading or deceiving purchasers, prospective purchasers or the consuming public, is an unfair trade practice.

Rule 8.

Wilfully enticing away the employees of competitors, with the purpose and effect of unduly hampering, injuring or embarrassing competitors in their businesses, is an unfair trade practice.

Rule 9.

The practice of coercing the purchase of one or more products as a prerequisite to the purchase of one or more other products, where the effect may be to substantially lessen competition or tend to create a monopoly or to unreasonably restrain trade, is an unfair trade practice.

Rule 10.

Offering merchandise for sale at prices purported to be reduced from what are in fact fictitious prices, or offering merchandise for sale at a purported reduction in price when such purported reduction is in fact fictitious, with the tendency and capacity or effect of misleading or deceiving purchasers, prospective purchasers or the consuming public, is an unfair trade practice.

Rule 11.

The use of the word "free" where not properly or fairly qualified when the article is in fact not free, with the tendency or capacity to mislead or deceive purchasers, prospective purchasers or the consuming public, is an unfair trade practice.

Rule 12.

The practice of shipping or delivering products which do not conform to the samples submitted or representations made prior to securing the orders, without the consent of the purchasers to such substitutions, and having the tendency, capacity or effect of deceiving or misleading purchasers, prospective purchasers or the consuming public, is an unfair trade practice.

Rule 13.

Directly or indirectly to give or permit to be given or offer to give money or anything of value to agents, employees or representatives of customers or prospective customers, or to agents, employees or representatives of competitors' customers or prospective customers, without the knowledge of their employers or principals, as an inducement to influence their employers or principals to purchase or contract to purchase industry products from the maker of such gift or offer, or to influence such employers or principals to refrain from dealing or contracting to deal with competitors, is an unfair trade practice.

Rule 14.

Securing information from competitors concerning their businesses by false or misleading statements or representations or by false impersonation of one in authority, and the wrongful use thereof to unduly hinder or stifle the competition of such competitors, is an unfair trade practice.

Rule 15.

In connection with the sale or offering for sale of products of the industry, representing through advertising or otherwise that such products conform to any standards recognized in or applicable to the industry when such is not the fact, with the tendency, capacity or effect of misleading or deceiving purchasers, prospective purchasers or the consuming public, is an unfair trade practice.

Rule 16.

For any person, firm or corporation to hold himself or itself out to the public as a manufacturer or wholesaler when

¹ See footnote on page 877.

such is not the fact, or in any other manner to misrepresent the character, extent or type of his or its business, with the tendency or capacity to mislead or deceive purchasers, prospective purchasers or the consuming public, is an unfair trade practice.

Rule 17.

The false or deceptive marking or branding of products of the industry for the purpose or with the tendency, capacity or effect of misleading or deceiving purchasers, prospective purchasers or the consuming public with respect to the grade, quality, quantity, use, size, material, content, origin, preparation, manufacture or distribution of such products, or in any other material respect, is an unfair trade practice.

Rule 18.

Withholding from or inserting in invoices or sales tickets any statements or information by reason of which omission or insertion a false record is made, wholly or in part, of the transactions represented on the face of such invoices or sales tickets, with the purpose or effect of thereby misleading or deceiving purchasers, prospective purchasers or the consuming public, is an unfair trade practice.

By direction of the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary*.

Entered April 19, 1937.

[F. R. Doc. 37-1183; Filed, April 21, 1937; 2:25 p. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 21st day of April, A. D., 1937.

IN THE MATTER OF AN OFFERING SHEET OF A ROYALTY INTEREST IN THE PURE-MAXFIELD FARM, FILED ON APRIL 1, 1937, BY P. R. KNICKERBOCKER, RESPONDENT

ORDER FOR CONTINUANCE

The Securities and Exchange Commission, having been requested by its counsel for a continuance of the hearing in the above entitled matter, which was last set to be heard at 2:00 o'clock in the afternoon on the 22nd day of April, 1937,¹ at the office of the Securities and Exchange Commission, 18th Street and Pennsylvania Avenue, Washington, D. C., and it appearing proper to grant the request;

It is ordered, pursuant to Rule VI of the Commission's Rules of Practice under the Securities Act of 1933, as amended, that the said hearing be continued to 10:00 o'clock in the forenoon on the 7th day of May, 1937, at the same place and before the same trial examiner.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 37-1187; Filed, April 22, 1937; 12:35 p. m.]

¹ 2 F. R. 794.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 21st day of April, A. D., 1937.

IN THE MATTER OF AN OFFERING SHEET OF A WORKING INTEREST IN THE GOELZ-WILKINSON FARM, FILED ON APRIL 5, 1937, BY F. GEORGE GOELZ, RESPONDENT

ORDER TERMINATING PROCEEDING AFTER AMENDMENT

The Securities and Exchange Commission, finding that the offering sheet filed with the Commission, which is the subject of this proceeding, has been amended, so far as necessary, in accordance with the Suspension Order previously entered in this proceeding;¹

It is ordered, pursuant to Rule 341 (d) of the Commission's General Rules and Regulations under the Securities Act of 1933, as amended, that the amendment received at the office of the Commission on April 20, 1937, be effective as of April 20, 1937; and

It is further ordered that the Suspension Order, Order for Hearing and Order Designating a Trial Examiner, heretofore entered in this proceeding, be and the same hereby are revoked and the said proceeding terminated.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 37-1185; Filed, April 22, 1937; 12:35 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 21st day of April, A. D., 1937.

IN THE MATTER OF AN OFFERING SHEET OF A ROYALTY INTEREST IN THE CONTINENTAL-JANSSEN FARM, FILED ON FEBRUARY 19, 1937, BY ARTHUR SORY, RESPONDENT

ORDER TERMINATING PROCEEDING AFTER AMENDMENT

The Securities and Exchange Commission, finding that the offering sheet filed with the Commission, which is the subject of this proceeding, has been amended, so far as necessary, in accordance with the Suspension Order previously entered in this proceeding;²

It is ordered, pursuant to Rule 341 (d) of the Commission's General Rules and Regulations under the Securities Act of 1933, as amended, that the amendment received at the office of the Commission on April 17, 1937, be effective as of April 17, 1937; and

It is further ordered that the Suspension Order, Order for Hearing and Order Designating a Trial Examiner, heretofore entered in this proceeding, be and the same hereby are revoked and the said proceeding terminated.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 37-1186; Filed, April 22, 1937; 12:35 p. m.]

¹ 2 F. R. 813.

² 2 F. R. 811.

